

		<p>Streets, Paul Streets, Stryk Family Investments LTD, by Stryk Mgmt. Inc., Christine Stucker, David Stucker, Mary Rose Stucker, William H. Swan, Larry Waddington, John W. Walden, Wanda J. Schaffner IRA, by Wanda J. Schaffner, Lijun Wang, David C. Watkins, Irving Welsted, Virginia Welsted, Douglas J. Whitaker, Mary M. Whitaker, YSY,LTD, by Logberg Associates Appellee designation due by 5/31/2005.</p> <p>Transmission of Designation Due by 6/20/2005. (Attachments: # <u>1</u> Certificate of Service to Appellant's Designation and Statement of Issues)(McNew, R.) Modified Text to add appeal number on 6/20/2005 (SDJ,). (Entered: 05/19/2005)</p>
05/19/2005	<u>43</u>	<p><i>Exhibit A to Appellants Designation of Contents For Inclusion in Record On Appeal and Statement of Issues to be Presented On Appeal (AP#05-33) (related document(s) <u>42</u>) Filed by A Gottscho Ret Plan, by Eva Gottscho, Charles M. Alberto, Jr., Alesi IRA, by Frank S. Russo - Alsesi, Constance L. Almeroth, Richard D. Almeroth, Susan L. Altman, Donna Kaye Alvey, Alvin Hertzberg Trust, by Nina Hertzberg, Amy Margaret Dunagin Uokutma by Emily B. Dunagin, Antonio Capone IRA, by Antonio Capone, Madison Arnold, Ascher Lawrence Mestel IRA, by Ascher L. Mestel, Carolyn L. Aucello, Joseph S. Aucello, James W. Baker, Wiley P. Ballard, Stuart A. Barbour, Jr., Bargain Books&Music, Alice L. Barone, Richard L. Barone, Barr H. Gardner C/FB Gardner, by Barr H. Gardner, Lindsey H. Barron, David M. Batchelor, Natalie J. Batchelor, Sherry Lynn Bengtson, Judith Bernhang, Beverly S. Clark Trust, by Exec Consultants Inc., George Birnbaum, Susan Birnbaum, Elizabeth L. Bishop, John C. Bishop, Richard K. Blum, Ruth M. Blum, Edlyne B Boyer, Lyman C. Brand, Alan Bresler, Brian J. Davis Ugtmaga, by Phillip H. Davis, Ann Noble Brown, David Brown, Brush & Co., William J. Burnside, Byran J. Weinstein, by Caren Weinstein, C. Yvonne Cooke, by Charles L. Grimes, Donna Cash, Elma Cesare, John D. Cesare, Raymond F. Chaney, Stan Charlse, Lillian H. Cheney, Diane Clemente, Allen W. Close, Judith Collentine, Thomas Collentine, Dorothy A. Connelly, Robert L. Council, Theo C. Council, Craig Miller DEF.PEN. PLAN, by Craig W. Miller, Craig W. Miller IRA FBO, by Craig W. Miller, Wiley M. Crittenden, Richard S. Daimond, Oliver H. Dale, Parks H. Dalton, David M. Robinson IRA, by David M. Robinson, James Davies, Dorothy Davis, Phillip H. Davis, Ray Davis, Paul Deputy, Charles Doggett, Julie M. Donahue, Timothy J. Donahue, Donna K. Alvey IRA, by Donna K. Alvey, Frank Donnelly, Mildred Donnelly, Lawrence W. Drinkard, Shyam Dube, Marshall C. Duke, Edith G. Hudgins R T, by Elwyn H. Hudgins, Edlyne B. Boyer IRA, by Edlyne B. Boyer, Elizabeth F. Egan, Francis C. Egan, Elizabeth F. Egan IRA, by Elizabeth F. Egan, Emily B. Dunagin IRA, by Emily B. Dunagin, Emily B. Dunagin Trust, by Emily B. Dunagin, Nancy Ennis, Robert B. Faber, Charles R. Faires, Sandra J. Faires, Gail Faleck, Victor Faleck, Alfred J. Fantani, Mary A. Fantini, Martin Farbenblum, Dale R. Feeney, Irving Feldbaum, Barbara Feldman, Richard Feldman, Flora B. Giffuni Trust, by Flora Giffuni, Thomas T. Folger, James H. Foster, Lauren Fouros, GMS Group LLC Atlanta Trading Acct, by GMS Group LLC, Gadfly Foundation, by Charles L. Grimes, Barr H. Gardner, III, Catherine C. Gardner, by Jamie G. Rutan, Julia A. Gasaway, Robert D. Gasaway, III,</i></p>

Harold L. Gilbert, Art Gittelman, Raymond J. Glass, Goldman Family Trust, by Harold S. Goldman, Gordon W. Chaplin, by Charles L. Grimes, Samuel Gorenstein, Accursio Graffeo, Lana Graffeo, Graig W. Miller D.C. Plan, by Craig W. Miller, Charles Livingston Grimes, Michael Groskin, Morton Gurrentz, H.G. Reynolds Co., Inc., HAH Ltd. Partnership, by Hyman Hershman, Brianne Haase, Charles Haase, Patricia Haase, Patricia A. Haase, Patricia Haase JT, Homer J. Harker, Myrtle E. Harker, Amy K. Haskell, Kelly Haskell, Richard Haskell, Susan Haskell, Richard C. Haskell, Jr, Richard Sanford Hathaway, Helen C. Burnside IRR Trust, by William J. Burnside, Charles M. Henderson, John A Henderson, M.D., Eileen C. Huston, John M. Huston, Lori B. Iulo, Thomas S. Iulo, Ivey Jackson IRA, by Ben Ivey Jackson, J. David Higgins Jr. IRA by J. David Higgins Jr., James B Connolly IRA, by James B. Connolly, James L. Dunagin Jr. IRA, by James L. Dunagin Jr., James L. Dunagin Jr. Trust by Emily B. Dunagin, James W. Baker III Roth IRA, by James W. Baker Jr., James W. Baker IRA, By James W. Baker, Jane G. Brown, Charles L. Grimes, Janet Leigh Dunagin Uokutma by Emily B. Dunagin, Charles H. Jesseph, John Berwecky, by Francis Berwecky, John Glouse IRA, by John Glouse, John S. Schwarzschild Trust, by Exec Consultants Inc. plaintiff, John W. Walden IRA, by John A. Walden, Joremi Enterprises Inc PSP, by Hilton Schwartz, Judith Goodman Rev TR, by Judith H. Goodman, Katherine Rae Clark UGTMA, by Stuart Schwarzschild, Kathryn G. Cravero TR, by Kathryn G. Cravero, Murray L. Kaufman, Sara Kavanaugh, Kellie Len Burnside IRR Trust, by William J. Burnside, Kenneth Marks IRA, by Kenneth Marks, Kildonan Partners, by John A. Robinson, Laura McGann IRA, by Laura McGann, Leo Boekman & Associates LP, by Leo Boekman, Patricia J. Lisenby, Spencer Lee Lisenby, Stephen Alan Lisenby, Steve A. Lisenby, by Steve A. Lisenby, Hartley Lord, David F. Lott, Teri L. Lott, Louise I G Ireland Trust, by Charles L. Grimes, Ellen Lowe, Richard Lowe, M & M LP 1st Tenn, by 1st Tenn Bank FL 3, M.L. Jarvis Inc., by Margaret Hathaway, David Thompson Macmillan, David P. Makris, Margaret W. Shuttleworth Rev TR, by Margaret W. Shuttleworth, Kathleen Markis, Betty Martino, Frank N. Martino, Mary G. Davis, by Phillip H. Davis, Alvin Matzer, Gloria Matzer, Frank McGann, McGrath Family Trust, by William J. McGrath, McCormick Family Trust, by James R. McCormick, Herman Meinders, Melvin Feldman IRA, by Melvin Feldman, Merle Dinkins Trust, by Merle Dinkins, Merriway Travel, by Kurt Huebner, Michael Boyer IRA, by Michael F. Boyer, Graig W. Miller, Patricia R. Robinson IRA, by Patricia R. Robinson, Patrick T. Rooney Family L.L.C. Corp., by 1st Nat. Bank of OK, Marcia J. Pearl, Phillip H. Davis III Trust, by Phillip H. Davis, Eileen Streets Quann, Beatrice Radin, Ethel Raffelock, Ramada Plaza Hotel, by Bonnie Ruben, Nancy Rea, Joan G. Reader, Malcom C. Reader, Patricia Reed, Ronald Reed, Brandon A. Reynolds, E. Leland Reynolds, Jeffrey Reynolds, Rebecca Reynolds, Richard S. Hathaway IRA, by Richard S. Hathaway, Mary G. Richardson, Joe F. Riley, Robert Lyons IRA, by Robert A. Lyons, Robert M. Baker MD P.S.P., by Robert M. Baker MD, John A. Robinson, Robinson Eye Profit Share, by John A. Robinson, Rock Revocable Trust, by Reinhart F. Rock, Rodney L. White Trust, by Rodney White, Rosenberg Trust, by Ludwig Rosenberg, Bonnie Ruben,

		Frank S. Russo, Jean M. Russo, Rudolph P. Russo, Alfred Saks, Samuel Friedland Trust, by Samuel E. Friedland, Wanda J. Schaffner, George Schneider, Hilton Schwartz, Stuart Schwarzhild, Scott A. Baker Roth IRA, by Scott A. Baker, Scott Arthur Baker UGMA GA, by James W. Baker Jr., Serena R. Schwartz, by Charles L. Grimes, Jean B. Sherrod, Solomon Jacobs Trust, by Solomon Jacobs, Fred Soussa, Alexander C. Speyer Jr., Marc Spurr, Susan Spurr, Murray Stadtmauer, Stanley Sommer Rev Living Trust, by Stanley Sommer, Michael Steets, Allan H. Stephens, Susan H. Stephens, Arthur F. Stolkey, Thomas Stolkey, Arthur F. Stolkey Trust, by Arthur F. Stolkey, Millicent Streets, Paul Streets, Stryk Family Investments LTD, by Stryk Mgmt. Inc., Christine Stucker, David Stucker, Mary Rose Stucker, William H. Swan, Larry Waddington, John W. Walden, Wanda J. Schaffner IRA, by Wanda J. Schaffner, Lijun Wang, David C. Watkins, Irving Welsted, Virginia Welsted, Douglas J. Whitaker, Mary M. Whitaker, YSY,LTD, by Logberg Associates (Attachments: # <u>1</u> Exhibit Part 2 of 4 - Complaint Originally Filed in Supreme Court New York County 1/27/04# <u>2</u> Exhibit Exhibit A Part 3 of 4 - Complaint Originally Filed in Supreme Court New York County on 1/27/04# <u>3</u> Exhibit Exhibit A Part 4 of 4 - Complaint Originally Filed in Supreme Court New York County on 1/27/04) (McNew, R.) Modified text to add appeal number on 6/20/2005 (SDJ,). (Entered: 05/19/2005)
05/31/2005	<u>44</u>	Appellee Designation of Contents for Inclusion in Record of Appeal (AP# 05-33) (related document(s) <u>42</u>) Filed by George V. Hager, Genesis Health Ventures, Inc. et al., Goldman Sachs & Co., Highland Capital Management, L.P., Mellon Bank NA (Attachments: # <u>1</u> Certificate of Service and Service List)(Madron, Jason) Modified text to add appeal number) on 6/20/2005 (SDJ,). (Entered: 05/31/2005)
06/23/2005	<u>45</u>	Transmittal of record on appeal (AP# 05-33) to District Court electronically. (related document(s) <u>40</u>) (LCo,) (Entered: 06/23/2005)
06/27/2005	<u>46</u>	Notice of Docketing of Appeal (AP#05-33). (related document(s) <u>42</u> , <u>44</u> , <u>40</u>) (SDJ,) (Entered: 07/06/2005)

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

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In re	:	Chapter 11 Case No.
	:	
GENESIS HEALTH VENTURES, INC., <i>et al.</i> ,	:	00-2692 (JHW)
	:	
Debtors.	:	(Jointly Administered)
<hr/>	x	
In re	:	Chapter 11 Case No.
	:	
MULTICARE AMC, INC., <i>et al.</i> ,	:	00-2494 (JHW)
	:	
Debtors.	:	(Jointly Administered)
<hr/>	x	

**DEBTORS' JOINT PLAN OF REORGANIZATION
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

Genesis Health Ventures, Inc., The Multicare Companies, Inc., and the other above-captioned debtors and debtors in possession propose the following joint chapter 11 Plan of Reorganization, pursuant to section 1121(a) of title 11 of the United States Code:

SECTION 1. DEFINITIONS AND INTERPRETATION

A. Definitions.

The following terms used herein shall have the respective meanings defined below (such meanings to be equally applicable to both the singular and plural):

1.1. *Administrative Expense Claim* means any right to payment constituting a cost or expense of administration of any of the Reorganization Cases allowed under sections 503(b), 507(a)(1), and 1114(e) of the Bankruptcy Code, including, without limitation, any actual and necessary costs and expenses of preserving the Debtors' estates, any actual and necessary costs and expenses of operating the Debtors' businesses, any indebtedness or obligations incurred or assumed by the Debtors, as debtors in possession, during the Reorganization Cases, including, without limitation, for the acquisition or lease of property or an interest in property or the rendition of services, any allowances of compensation and reimbursement of expenses to the extent allowed by Final Order under sections 330 or 503 of the Bankruptcy Code, and any fees or charges assessed against the estates of the Debtors under section 1930 of chapter 123 of title 28 of the United States Code.

1.2. *Allowed* means, with reference to any Claim, (i) any Claim against any Debtor which has been listed by such Debtor in the Schedules, as such Schedules may be amended by the Debtors from time to time in accordance with Bankruptcy Rule 1009, as liquidated in amount and not disputed or contingent and for which no contrary proof of claim has been filed, (ii) any timely filed Claim as to which no objection to allowance has been interposed in accordance with Section 7.1 hereof or such other applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or as to which any objection has been determined by a Final Order to the extent such objection is determined in favor of the respective holder, or (iii) any Claim expressly allowed by a Final Order or hereunder.

behalf of the Debtors shall not be discharged or impaired by confirmation of the Plan of Reorganization. Such obligations shall be deemed and treated as executory contracts to be assumed by the Debtors pursuant to the Plan of Reorganization, and shall continue as obligations of the Reorganized Debtors.

SECTION 9. CONDITION PRECEDENT TO THE EFFECTIVE DATE

The occurrence of the Effective Date of the Plan of Reorganization is subject to satisfaction of the condition precedent that the Reorganized Debtors shall enter into the new financing arrangements referred to in Section 5.4 hereof for purposes of funding obligations under the Plan of Reorganization and providing for working capital requirements and all of the conditions precedent to the initial extensions of credit thereunder shall be satisfied.

SECTION 10. EFFECT OF CONFIRMATION

10.1. *Vesting of Assets.*

Upon the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all property of the Debtors' bankruptcy estates shall vest in the Reorganized Debtors free and clear of all Claims, liens, encumbrances, charges, and other interests, except as provided herein. The Reorganized Debtors may operate their businesses and may use, acquire, and dispose of property free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules and in all respects as if there were no pending cases under any chapter or provision of the Bankruptcy Code, except as provided herein.

10.2. *Discharge of Claims and Termination of Equity Interests.*

Except as otherwise provided herein or in the Confirmation Order, the rights afforded in the Plan of Reorganization and the payments and distributions to be made hereunder shall discharge all existing debts and Claims, and terminate all Equity Interests, of any kind, nature, or description whatsoever against or in the Debtors or any of their assets or properties to the fullest extent permitted by section 1141 of the Bankruptcy Code. Except as provided in the Plan of Reorganization, upon the Effective Date, all existing Claims against the Debtors and Equity Interests in the Debtors, shall be, and shall be deemed to be, discharged and terminated, and all holders of Claims and Equity Interests shall be precluded and enjoined from asserting against the Reorganized Debtors, or any of their assets or properties, any other or further Claim or Equity Interest based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not such holder has filed a proof of claim or proof of equity interest. Notwithstanding any provision of the Plan to the contrary, any valid setoff or recoupment rights held against any of the Debtors, including any such rights that HCR Manor Care, Inc., Manor Care, Inc., and/or ManorCare Health Services, Inc. may have in connection with the pending prepetition litigation actions described in section V.D of the disclosure statement for the Plan, shall not be affected by the Plan and shall be expressly preserved in the Confirmation Order.

10.3. *Discharge of Debtors.*

Upon the Effective Date and in consideration of the distributions to be made hereunder, except as otherwise expressly provided herein, each holder (as well as any trustees and agents on behalf of each holder) of a Claim or Equity Interest and any affiliate of such holder shall be deemed to have forever waived, released, and discharged the Debtors, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Equity Interests, rights, and liabilities that arose prior to the Effective Date. Upon the Effective Date, all such persons shall be forever precluded and enjoined, pursuant to section 524 of the Bankruptcy Code, from prosecuting or asserting any such

discharged Claim against or terminated Equity Interest in the Debtors. Notwithstanding any provision of the Plan to the contrary, any valid setoff or recoupment rights held against any of the Debtors, including any such rights that HCR Manor Care, Inc., Manor Care, Inc., and/or ManorCare Health Services, Inc. may have in connection with the pending prepetition litigation actions described in section V.D of the disclosure statement for the Plan, shall not be affected by the Plan and shall be expressly preserved in the Confirmation Order.

10.4. *Term of Injunctions or Stays.*

Unless otherwise provided, all injunctions or stays arising under or entered during the Reorganization Cases under section 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the later of the Effective Date and the date indicated in such order.

10.5. *Injunction Against Interference With Plan.*

Upon the entry of a Confirmation Order with respect to the Plan of Reorganization, all holders of Claims and Equity Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, or principals, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan of Reorganization.

10.6. *Exculpation.*

Neither the Debtors, any Disbursing Agent, the respective statutory committees of unsecured creditors appointed pursuant to section 1102 of the Bankruptcy Code in the Genesis Reorganization Cases and the Multicare Reorganization Cases, Mellon Bank, N.A., as administrative agent under, and any lender under, the Genesis Senior Lender Agreements, the Multicare Senior Lender Agreements, and the Revolving Credit and Guaranty Agreements described in Section 2.4 hereof, nor any of their respective members, officers, directors, employees, agents, or professionals shall have or incur any liability to any holder of any Claim or Equity Interest for any act or omission in connection with, or arising out of, the Reorganization Cases, the confirmation of the Plan of Reorganization, the consummation of the Plan of Reorganization, or the administration of the Plan of Reorganization or property to be distributed under the Plan of Reorganization, except for willful misconduct or gross negligence.

10.7. *Retention of Causes of Action/Reservation of Rights.*

(a) Nothing contained in the Plan of Reorganization or the Confirmation Order shall be deemed to be a waiver or the relinquishment of any rights or causes of action that the Debtors or the Reorganized Debtors may have or which the Reorganized Debtors may choose to assert on behalf of their respective estates under any provision of the Bankruptcy Code or any applicable nonbankruptcy law, including, without limitation, (i) any and all Claims against any person or entity, to the extent such person or entity asserts a crossclaim, counterclaim, and/or Claim for setoff which seeks affirmative relief against the Debtors, the Reorganized Debtors, their officers, directors, or representatives, and (ii) the turnover of any property of the Debtors' estates; *provided, however,* that this Section does not apply with respect to the settlement agreements described in Sections 5.15 and 5.16 hereof. Notwithstanding the foregoing, the Debtors and the Reorganized Debtors waive all avoidance actions, except as set forth in the Plan Supplement.

(b) Nothing contained in the Plan of Reorganization or the Confirmation Order shall be deemed to be a waiver or relinquishment of any claim, cause of action, right of setoff, or other legal or

equitable defense which the Debtors had immediately prior to the Commencement Date, against or with respect to any Claim left unimpaired by the Plan of Reorganization. The Reorganized Debtors shall have, retain, reserve, and be entitled to assert all such claims, causes of action, rights of setoff, and other legal or equitable defenses which they had immediately prior to the Commencement Date fully as if the Reorganization Cases had not been commenced, and all of the Reorganized Debtors' legal and equitable rights respecting any Claim left unimpaired by the Plan of Reorganization may be asserted after the Confirmation Date to the same extent as if the Reorganization Cases had not been commenced.

SECTION 11. RETENTION OF JURISDICTION

On and after the Effective Date, the Bankruptcy Court shall retain jurisdiction over all matters arising in, arising under, and related to the Reorganization Cases for, among other things, the following purposes:

- (a) To hear and determine applications for the assumption or rejection of executory contracts or unexpired leases and the allowance of Claims resulting therefrom.
- (b) To determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date.
- (c) To ensure that distributions to holders of Allowed Claims are accomplished as provided herein.
- (d) To consider Claims or the allowance, classification, priority, compromise, estimation, or payment of any Claim, Administrative Claim, or Equity Interest.
- (e) To enter, implement, or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated.
- (f) To issue injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any person with the consummation, implementation, or enforcement of the Plan of Reorganization, the Confirmation Order, or any other order of the Bankruptcy Court.
- (g) To hear and determine any application to modify the Plan of Reorganization in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan of Reorganization, the disclosure statement for the Plan or Reorganization, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof.
- (h) To hear and determine all applications under sections 330, 331, and 503(b) of the Bankruptcy Code for awards of compensation for services rendered and reimbursement of expenses incurred prior to the Confirmation Date.
- (i) To hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan of Reorganization, the Confirmation Order, any transactions or payments contemplated hereby, or any agreement, instrument, or other document governing or relating to any of the foregoing.

- and -

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Dated: Wilmington, Delaware
July 6, 2001

Respectfully submitted,

GENESIS HEALTH SERVICES CORPORATION
GENESIS HEALTH VENTURES, INC.
ACCUMED, INC.
ASCO HEALTHCARE, INC.
ASCO HEALTHCARE OF NEW ENGLAND, INC.
BRINTON MANOR, INC.
BURLINGTON WOODS CONVALESCENT CENTER, INC.
CARECARD, INC.
CAREFLEET, INC.
CHELTENHAM LTC MANAGEMENT, INC.
COMPASS HEALTH SERVICES, INC.
CONCORD HEALTHCARE CORPORATION
CONCORD PHARMACY SERVICES, INC.
CRESTVIEW CONVALESCENT HOME, INC.
CRESTVIEW NORTH, INC.
CRYSTAL CITY NURSING CENTER, INC.
DELCO APOTHECARY, INC.
DERBY NURSING CENTER CORPORATION
DIANE MORGAN AND ASSOCIATES, INC.
DOVER HEALTHCARE ASSOCIATES, INC.
EASTERN MEDICAL SUPPLIES, INC.
EASTERN REHAB SERVICES, INC.
EIDOS, INC.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

NEW YORK
COUNTY CLERK'S OFFICE

JAN 27 2004

RICHARD HASKELL, JAMES W. BAKER IRA by JAMES W. BAKER, JOHN A. ROBINSON, PATRICK T. ROONEY FAMILY LLC CORP. by 1st NAT BANK OF OK, M & M LP 1st TENN by 1st TENN BANK FL3, CHARLES M. ALBERTO JR., RICHARD D. ALMEROOTH, CONSTANCE L. ALMEROOTH, DONNA KAYE ALVEY, DONNA K. ALVEY IRA by DONNA K. ALVEY, MADISON ARNOLD, LIJUN WANG, JOSEPH S. AUCELLO, CAROLYN L. AUCELLO, SCOTT A. BAKER ROTH IRA by SCOTT A. BAKER, JAMES W. BAKER III ROTH IRA by JAMES W. BAKER III, JAMES W. BAKER JR., JAMES W. BAKER III UGMA GA by JAMES W. BAKER JR., SCOTT ARTHUR BAKER UGMA GA by JAMES W. BAKER JR., ROBERT M. BAKER MD P.S.P. by ROBERT M. BAKER MD, WILEY P. BALLARD JR., STUART A. BARBOUR JR., BARGAIN BOOKS & MUSIC, RICHARD L. BARONE, ALICE L. BARONE, LINDSEY H. BARRON, DAVID M. BATCHELOR, NATALIE J. BATCHELOR, SHERRY LYNN BENGTSON, JUDITH BERNHANG, JOHN BERWECKY by FRANCES BERWECKY, GEORGE BIRNBAUM, SUSAN BIRNBAUM, JOHN C. BISHOP, ELIZABETH L. BISHOP, RICHARD K. BLUM, RUTH M. BLUM, LEO BOEKMAN & ASSOCIATES LP by LEO BOEKMAN, EDLYNE B. BOYER, EDLYNE B. BOYER IRA by EDLYNE B. BOYER, MICHAEL F. BOYER, MICHAEL BOYER IRA by MICHAEL F. BOYER, LYMAN C. BRAND, ALAN BRESLER, DAVID BROWN, ANN NOBLE BROWN, BRUSH & CO., WILLIAM J. BURNSIDE, KELLIE LEN BURNSIDE IRR TRUST by WILLIAM J. BURNSIDE, HELEN C. BURNSIDE IRR TRUST by WILLIAM J. BURNSIDE, ANTONIO CAPONE IRA by ANTONIO CAPONE, HOWARD

Index No.
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Plaintiff designates
NEW YORK COUNTY

The basis of venue is one or more of
the parties resides or has a place of business in
this County.

SUMMONS

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JAN 27 2004

COUNTY CLERK'S OFFICE
NEW YORK

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MICHAELS by CARLTON GROUP, DONNA CASH, JOHN D. CESARE, ELMA CESARE, RAYMOND F. CHANEY, STAN CHARLSE, LILLIAN H. CHENEY, DIANE CLEMENTE, ALLEN W. CLOSE, THOMAS COLLENTINE, JUDITH COLLENTINE, DOROTHY A. CONNELLY, JAMES B. CONNELLY IRA by JAMES B. CONNELLY , ROBERT L. COUNCIL, THEO C. COUNCIL, KATHRYN G. CRAVERO TR by KATHRYN G. CRAVERO, WILEY M. CRITTENDEN JR., OLIVER H. DALE, PARKS H. DALTON, JAMES DAVIES, PHILIP H. DAVIS, BRIAN J. DAVIS UGTMAGA by PHILIP H. DAVIS, MARY G. DAVIS by PHILIP H. DAVIS, PHILIP H. DAVIS III TRUST by PHILIP H. DAVIS, RAY DAVIS, DOROTHY DAVIS, PAUL DEPUTY, RICHARD S. DIAMOND, MERLE DINKINS TRUST by MERLE DINKINS, CHARLES DOGGETT, FRANK DONNELLY, MILDRED DONNELLY, TIMOTHY J. DONOHUE, JULIE M. DONOHUE, LAWRENCE W. DRINKARD, SHYAM DUBE, C. MARSHALL DUKE, EMILY B. DUNAGIN TRUST by EMILY B. DUNAGIN, JAMES L. DUNAGIN JR. TRUST by EMILY B. DUNAGIN, AMY MARGARET DUNAGIN UOKUTMA by EMILY B. DUNAGIN, JANE LEIGH DUNAGIN UOKUTMA by EMILY B. DUNAGIN, EMILY B. DUNAGIN IRA by EMILY B. DUNAGIN, JAMES L. DUNAGIN JR. IRA by JAMES L. DUNAGIN JR., ELIZABETH F. EGAN IRA by ELIZABETH F. EGAN, FRANCIS C. EGAN, ELIZABETH F. EGAN, JEFFREY ELLNER IRA by JEFFREY ELLNER, NANCY ENNIS, JOHN S. SCHWARZSCHILD TRUST by EXEC. CONSULTANTS INC., BEVERLY S. CLARK TRUST by EXEC. CONSULTANTS INC., ROBERT B. FABER, CHARLES R. FAIRES, SANDRA J. FAIRES, VICTOR FALECK,

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GAIL FALECK, ALFRED J. FANTINI, MARY A. FANTINI, MARTIN FARBENBLUM, DALE R. FEENEY, IRVING FELDBAUM, BARBARA FELDMAN, RICHARD FELDMAN, MELVIN FELDMAN IRA by MELVIN FELDMAN, THOMAS T. FOLGER JR., JAMES H. FOSTER, LAUREN FOUROS, SAMUEL FRIEDLAND TRUST by SAMUEL E. FRIEDLAND, BARR H. GARDNER C/F B GARDNER by BARR H. GARDNER, BARR H. GARDNER III, JULIA A. GASAWAY, ROBERT D. GASAWAY III, FLORA B. GIFFUNI TRUST by FLORA GIFFUNI, HAROLD L. GILBERT, ART GITTELMAN, MARCIA J. PEARL, RAYMOND J. GLASS, JOHN GLOUSE IRA by JOHN GLOUSE, GMS GROUP LLC ATLANTA TRADING ACCT by GMS GROUP LLC, GOLDMAN FAMILY TRUST by HAROLD S. GOLDMAN, JUDITH GOODMAN REV TR by JUDITH H. GOODMAN, SAMUEL GORENSTEIN, A GOTTSCHORET PLAN by EVA GOTTSCHO, ACCURSIO GRAFFEO, LANA GRAFFEO, CHARLES LIVINGSTON GRIMES, KELLY HASKELL, SUSAN S. HASKELL, RICHARD C. HASKELL JR, AMY K. HASKELL, LOUISE I G IRELAND TRUST by CHARLES L. GRIMES, GADFLY FOUNDATION by CHARLES L. GRIMES, C. YVONNE COOKE by CHARLES L. GRIMES, JANE G. BROWN by CHARLES L. GRIMES, SERENA R. SCHWARTZ by CHARLES L. GRIMES, GORDON W. CHAPLIN by CHARLES L. GRIMES, MICHAEL GROSKIN, MORTON GURRENTZ, H.G. REYNOLDS CO., INC., CHARLES HAASE, PATRICIA HAASE, PATRICIA A. HAASE, PATRICIA HAASE JT, BRIANNE HAASE, MYRTLE E. HARKER, HOMER J. HARKER, M.L. JARVIS INC. by MARGARET HATHAWAY, RICHARD S. HATHAWAY IRA by RICHARD S. HATHAWAY, RICHARD SANFORD HATHAWAY, CHARLES M. HENDERSON, JOHN A. HENDERSON

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Plaintiffs,

-v.-

(caption continued on next page)

GOLDMAN SACHS & CO., MELLON BANK, N.A.,
HIGHLAND CAPITAL MANAGEMENT, L.P.,
GENESIS HEALTH VENTURES, INC., and GEORGE V.
HAGER,

Defendants.

To the above named Defendant(s)

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to service a Notice of Appearance, on the Plaintiff's Attorney within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgement will be taken against you by default for the relief demanded in the complaint.

DATED: New York, New York
January 27, 2004

DEFENDANTS' ADDRESSES:

Goldman Sachs & Co.
85 Broad Street, Grnd Floor
New York, NY 10004-2456

MELLON BANK, N.A.
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Pittsburgh, PA 15258

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Genesis Health Ventures, Inc.
101 East State Street
Kennett Square, PA 19348-3109

George V. Hager
c/o Genesis Health Ventures, Inc.
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**Pomerantz Haudek Block Grossman
& Gross LLP**
Attorneys for Plaintiffs
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New York, New York 10017-5516
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

RICHARD HASKELL, JAMES W. BAKER IRA by JAMES W. BAKER, JOHN A. ROBINSON, PATRICK T. ROONEY FAMILY LLC CORP. by 1st NAT BANK OF OK, M & M LP 1st TENN by 1st TENN BANK FL3, CHARLES M. ALBERTO JR., RICHARD D. ALMEROOTH, CONSTANCE L. ALMEROOTH, DONNA KAYE ALVEY, DONNA K. ALVEY IRA by DONNA K. ALVEY, MADISON ARNOLD, LIJUN WANG, JOSEPH S. AUCELLO, CAROLYN L. AUCELLO, SCOTT A. BAKER ROTH IRA by SCOTT A. BAKER, JAMES W. BAKER III ROTH IRA by JAMES W. BAKER III, JAMES W. BAKER JR., JAMES W. BAKER III UGMA GA by JAMES W. BAKER JR., SCOTT ARTHUR BAKER UGMA GA by JAMES W. BAKER JR., ROBERT M. BAKER MD P.S.P. by ROBERT M. BAKER MD, WILEY P. BALLARD JR., STUART A. BARBOUR JR., BARGAIN BOOKS & MUSIC, RICHARD L. BARONE, ALICE L. BARONE, LINDSEY H. BARRON, DAVID M. BATCHELOR, NATALIE J. BATCHELOR, SHERRY LYNN BENGTSON, JUDITH BERNHANG, JOHN BERWECKY by FRANCES BERWECKY, GEORGE BIRNBAUM, SUSAN BIRNBAUM, JOHN C. BISHOP, ELIZABETH L. BISHOP, RICHARD K. BLUM, RUTH M. BLUM, LEO BOEKMAN & ASSOCIATES LP by LEO BOEKMAN, EDLYNE B. BOYER, EDLYNE B. BOYER IRA by EDLYNE B. BOYER, MICHAEL F. BOYER, MICHAEL BOYER IRA by MICHAEL F. BOYER, LYMAN C. BRAND, ALAN BRESLER, DAVID BROWN, ANN NOBLE BROWN, BRUSH & CO., WILLIAM J. BURNSIDE, KELLIE LEN BURNSIDE IRR TRUST by WILLIAM J. BURNSIDE, HELEN C. BURNSIDE IRR TRUST by WILLIAM J. BURNSIDE, ANTONIO CAPONE IRA by ANTONIO CAPONE, HOWARD

COMPLAINT

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MICHAELS by Carlton Group, Donna Cash, John D. Cesare, Elma Cesare, Raymond F. Chaney, Stan Charlse, Lillian H. Cheney, Diane Clemente, Allen W. Close, Thomas Collentine, Judith Collentine, Dorothy A. Connelly, James B. Connelly IRA by James B. Connelly, Robert L. Council, Theo C. Council, Kathryn G. Cravero TR by Kathryn G. Cravero, Wiley M. Crittenden Jr., Oliver H. Dale, Parks H. Dalton, James Davies, Philip H. Davis, Brian J. Davis UGTMAGA by Philip H. Davis, Mary G. Davis by Philip H. Davis, Philip H. Davis III TRUST by Philip H. Davis, Ray Davis, Dorothy Davis, Paul Deputy, Richard S. Diamond, Merle Dinkins TRUST by Merle Dinkins, Charles Doggett, Frank Donnelly, Mildred Donnelly, Timothy J. Donohue, Julie M. Donohue, Lawrence W. Drinkard, Shyam Dube, C. Marshall Duke, Emily B. Dunagin TRUST by Emily B. Dunagin, James L. Dunagin Jr. TRUST by Emily B. Dunagin, Amy Margaret Dunagin UOKUTMA by Emily B. Dunagin, Jane Leigh Dunagin UOKUTMA by Emily B. Dunagin, Emily B. Dunagin IRA by Emily B. Dunagin, James L. Dunagin Jr. IRA by James L. Dunagin Jr., Elizabeth F. Egan IRA by Elizabeth F. Egan, Francis C. Egan, Elizabeth F. Egan, Jeffrey Ellner IRA by Jeffrey Ellner, Nancy Ennis, John S. Schwarzschild TRUST by EXEC. CONSULTANTS INC., Beverly S. Clark TRUST by EXEC. CONSULTANTS INC., Robert B. Faber, Charles R. Faires, Sandra J. Faires, Victor Faleck,

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HIGHLAND CAPITAL MANAGEMENT, L.P.,
GENESIS HEALTH VENTURES, INC., and GEORGE V.
HAGER,

Defendants.

This is plaintiffs' complaint for fraud and grossly negligent misrepresentation. It is based upon information and belief, except for allegations concerning plaintiffs' own actions, which are based on personal knowledge. Plaintiffs' information and belief is based, *inter alia*, upon documents, pleadings, testimony, expert valuations and other information produced and/or presented to the Bankruptcy Court, to the creditors committee and to individual creditors and other participants in the bankruptcy proceedings involving defendant Genesis Health Ventures, Inc. ("Genesis") and The Multicare Companies, Inc. ("MC"); upon press releases, financial filings with the SEC, and other publicly available information concerning Genesis and MC; and the investigation of their counsel into these and other matters.

I. Introduction

1. Plaintiffs are 275 investors who collectively held over \$205 million in debentures issued by Genesis. These debentures were subordinated to about

\$1.3 billion in senior debt that Genesis had originally owed to its lending banks. By the summer of 2000, a group of investment banks and other financial institutions, led by defendant Goldman Sachs & Co. (“Goldman”), had purchased from the original lending consortium about half of the Genesis senior debt participations, at a massive discount from face value. Goldman, Highland Capital Partners (another investment firm) (“Highland”) and the lead senior lender bank, Mellon Bank N.A. (“Mellon”), then conspired with Genesis management to put the Company into bankruptcy and “cram down” a reorganization plan that would eliminate junior creditors (including plaintiffs) and existing stockholders, while conveying virtually total ownership of Genesis to the senior creditors. By the time the reorganization plan was confirmed, the investment banks had acquired over 75% of the senior debt participations, and therefore came away with about 70% of the equity of the reorganized Genesis. In exchange for their cooperation in this vast transfer of wealth, senior members of Genesis management received new “retention bonuses”, forgiveness of debt and compensation packages worth millions.

2. Genesis filed its Chapter 11 bankruptcy petition on June 22, 2000, and a year later it proposed a reorganization plan (the “Plan”) that would virtually wipe out all the junior creditors and existing stockholders, force the merger of Genesis and MC, and distribute over 94% of the newly issued common stock of the

reorganized, combined entities to the senior creditors.

3. To justify this transfer of ownership to the senior creditors, the Plan represented that the enterprise value of Genesis was about \$1.3 billion, and defendants submitted reports of financial advisors to support that conclusion. They deceived the Bankruptcy Court into accepting that valuation. Having determined that the Company was worth less than the senior creditor claims, the Court approved the Plan. As a result, the senior creditors walked away from the bankruptcy with over 94% of the equity of Genesis, and junior creditors, including plaintiffs, received next to nothing.

4. The valuations of the Company, on which Court approval of the Plan was based, were based on fraudulent information. The linchpin of the fraud was the “Budgeted EBITDA” projections for fiscal 2001, issued by the Company and provided to its financial advisors, UBS Warburg (“Warburg”). Relying on the Budgeted EBITDA data, the Warburg report valued Genesis at about \$1.3 billion.

5. The Budgeted EBITDA data were well below Genesis’ recent historical standards. The Budgeted EBITDA projected that Genesis would earn \$158 million in EBITDA in fiscal 2001, and would improve only gradually over the ensuing years. This was far below Genesis’ recent performance, which had exceeded \$205-210 million for fiscal 1998 and 1999, and which had been on pace to achieve